

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON CENTERS,

Plaintiff,

v.

AMTRAK,

Defendant.

Case No. 2:23-cv-11036

District Judge Matthew F. Leitman

Magistrate Judge Kimberly G. Altman

ORDER GRANTING PLAINTIFF'S UNOPPOSED
MOTION TO COMPEL (ECF No. 23)

I.

This is an employment case under the Federal Employers Liability Act. Plaintiff Jason Centers (Centers) is suing his employer, Amtrak, seeking damages after suffering an injury at work. Before the Court is Centers' motion to compel (ECF No. 23), which was referred to the undersigned. (ECF No. 24). For the reasons that follow, the motion is GRANTED.

II.

On September 23, 2024, Centers filed the instant motion to compel Amtrak to produce managing agents Tim Nolan (Nolan) and William Gorham (Gorham) for depositions. (ECF No. 23). Centers explains that the parties agreed to the

depositions of Nolan and Gorham, but Nolan failed to appear at a deposition scheduled for July 29, 2024, without explanation. (*Id.*, PageID.111). The parties conferred again, and Centers arranged another deposition of both Nolan and Gorham, but again, both agents failed to appear without explanation. (*Id.*, PageID.111-112). Centers has further attempted to schedule depositions of Nolan and Gorham to no avail. (*Id.*, PageID.112).

Under the rules, Amtrak's response to Centers' motion to compel was due by October 7, 2024. *See* E.D. Mich. LR 7.1(e)(1). To date, Amtrak has not responded. The motion is therefore unopposed. “ ‘[I]f a [party] fails to respond or otherwise oppose a [party's] motion, then the district court may deem the [non-moving party] to have waived opposition to the motion.’ ” *Stewart v. Marathon Petroleum Co., LP*, No. 2:18-CV-12510, 2020 WL 12763077, at *1 (E.D. Mich. Dec. 7, 2020) (MURPHY, J.) (quoting *Humphrey v. U.S. Attorney General's Office*, 279 F. App'x 328, 331 (6th Cir. 2008) (alterations in *Stewart*)).

Amtrak shall produce Nolan and Gorham for depositions **on or before October 23, 2024**. Failure to comply with this order or the Court's prior discovery order, (ECF No. 18), may subject Amtrak to discovery sanctions under Fed. R. Civ. P. 37.

Further, Centers has requested that Amtrak be ordered to pay the costs incurred by Centers in organizing and noticing the two unsuccessful depositions

and filing this motion. If Centers wishes to pursue an award of his reasonable expenses and/or attorney's fees in connection with his organization of the depositions and preparation of this motion, he may file a motion for relief including a sworn bill of costs and any supporting documentation by **November 6, 2024**, for consideration. Amtrak shall have fourteen days from the filing of any such motion to respond.

SO ORDERED.

Dated: October 9, 2024
Detroit, Michigan

s/Kimberly G. Altman
KIMBERLY G. ALTMAN
United States Magistrate Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on October 9, 2024.

s/ Kristen Castaneda
Kristen Castaneda
Case Manager